IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 250 OF 1996

Prafullachandra Shankarrao Pariswad.....Applicant.

Versus

The State of Maharashtra & Ors.. .... Respondents.

Mr. R. S. Apte for the Applicant.

Mr. S. V. Saste, APP for State.

**CORAM : V.R. KINGAONKAR, J.**

**DATED : 21ST APRIL, 2006.**

**P.C.:**

By this revision application, the order passed by the learned Sessions Judge, Sangli, regarding disposal of gold ornaments is being assailed on the allegation that the Applicant is the person entitled to receive custody thereof.

2. In a criminal case (C.R. No. 2971 of 1979) two Accused were charge-sheeted and tried for offence of theft. At their instance certain gold ornaments including 4 gold bangles and some gold ingots were seized by the police. The trial Court gave benefit of

doubt to the original Accused and acquitted them. The gold ornaments and the ingots were seized from the present Applicant under the different panchnamas. The trial Court held that identity of the gold bangles is proved by original Complainant and as such the said property / article shall be returned to the Complainant. In appeal filed against the said order, the learned Sessions Judge, Sangli held that the original Complainant Smt. Kamal Deshpande is entitled to receive custody of only 4 gold bangles but rest of the articles shall be given the persons from whom they were seized including return of a gold ball (ingots) which was to be returned to the present Applicant.

3. Heard learned Counsel for the Applicant and the learned APP for the State. It emerges from the record that the seizure of gold bangles were effected at the instance of Accused Nos.1 and 2. They had pointed out shop of present Applicant and thereafter the seizure was effected. The bangles were produced by the Applicant from his house and were seized under a panchanama. The learned Sessions Judge has appreciated relevant evidence and has come to the conclusion that identity of the gold bangles is duly proved as stolen property. It is further held that

Complainant, Smt. Kamal Deshpande, is the proper person to whom the bangles ought to be returned. As far as rival claim of the Applicant is concerned, it appears that conduct of the Applicant is rather quiz. He turned hostile during the trial. He stated before the trial Court that he is a goldsmith and deals with only silver ornaments. He did not produce any receipt or any documentary evidence regarding ownership of the said gold bangles. He did not give any application to the trial Court, during course of the trial for return of the property. He made no complaint against the police officer regarding alleged theft or duress under which he said to have parted with the bangles. The bangles do not bear any identification mark to show that the Applicant or his wife is the owner thereof. The learned Sessions Judge found that evidence of the Applicant, who appears as P.W.3 during the course of the trial, is quite shaky and improbable. The evidence cannot be reappreciated in the present revision application.

4. The learned Sessions Judge has given reasons in support of the impugned order which cannot be regarded as without substance. The impugned order does not suffer from any arbitrariness, perversity or

capriciousness. The revisional jurisdiction is limited to the extent of finding regarding arbitrary interpretation of the evidence or the revisional court may intervene when there is a finding based upon no evidence at all. In the present matter, the impugned order is based upon reasons which are outcome of appreciation made by the learned Sessions Judge. I cannot interfere with the finding only because some other view is possible. Hence, the revision application is rejected.

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